

Appln. No. 10/802,194

Attorney Docket No. 10541-1989

II. Remarks

Reexamination and reconsideration of this application is hereby requested. Claims 1, 4, and 5 are pending in the application. Claims 7 and 8 have been withdrawn from consideration. Claims 1 and 4 have been amended. Claim 2, 3 and 6 have previously been cancelled.

Rejections Under 35 USC § 112

Claims 1, 4 and 5 were rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement on the basis that the amendments made to the drawings in the prior response added new matter. Applicant respectfully traverses this rejection.

It is respectfully submitted that the wall added to the collector unit 8 in the figures is supported in paragraphs [0026]–[0028] of the specification. More specifically, paragraph [0028] discloses “a collector unit 8 for a heating heat exchanger 3 with separate collector and distributor units....” App. 10/802,194 at paragraph [0028]. This sentence, when viewed light of the earlier qualifier that “[t]he term collector, or collector region, respectively, is, with the corresponding function in reversed sense, also mean as distributor, or distributor region...,” *id.* at paragraph [0026], clearly would be understood by one skilled in the art that the collector unit 8 is made of two separate regions; one to distribute and one to collect the fluid. As a person skilled in the art would readily appreciate, the only way to have separate regions with differing functions is through the presence of the wall.

The above conclusion is further supported by the explicit function of the coolant tubes 6, which is to accept coolant flow, redirect the flow of coolant by 180° and return the flow back to the coolant collector region. *Id.* at paragraph [0027].

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Absent the wall dividing the two regions, this function would not be possible. Therefore, it would be obvious and clear to one skilled in the art that a wall is required to achieve the distributor and collector functions disclosed in paragraphs [0027] and [0028]. Accordingly, it is believed that this rejection is now moot and should be withdrawn.

Claims 1, 4 and 5 were rejected under 35 USC §112, first paragraph, as failing to comply with the enablement requirement. Applicant respectfully traverses this rejection.

In light of paragraphs [0027] and [0028], it would be abundantly clear to one skilled in the art that the coolant flows into the pipes 6 from one chamber of the coolant collector region, is turned through 180°, and flows out of the pipes 6 and into the separate chamber of the coolant collector region, and that such separate chambers would be formed by a wall within the collector unit 8. Accordingly, it is believed that this rejection is now moot and should be withdrawn.

Claims 1, 4 and 5 were rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claim 1 has been amended to specifically recite "a heat exchanging surface" and claim 4 has been amended to depend from claim 1. Accordingly, it is believed that this rejection is now moot and should be withdrawn.

Rejections Under 35 USC § 102(b) & 103(a)

Claims 1 and 4 were rejected under 35 USC §102(b) as being anticipated by or, in the alternative, under USC §103(a) as obvious over U.S. Patent No. 6,095,239 issued to Makino et al. (Makino). Applicant respectfully traverses these rejections.

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As noted by the examiner, Makino discloses a heat exchanger having two first heat exchanger tanks 25, 27 and two condenser tanks 31, 33. Makino, col. 5, lines 14-24 and Figure 1. Each condenser tank 31, 33 is respectively mounted to the exterior of one of the first heat exchanger tank 25, 27. *Id.* at Figure 1, and Figures 24-27. In addition, the pairs of tanks (i.e. the heat exchanger tank 25, 27 with its respective condenser tank 31, 33) are separately mounted on opposite ends of tubes 29, 35. Thus, the tanks that distribute coolant and refrigerant are physically separated from those that collect the coolant and refrigerant. From this, it is submitted that Makino fails to disclose both a refrigerant collector region at least partly surrounded by the coolant collector region, and a collector unit including a coolant distributor region, a coolant collector region, a refrigerant distributor region and a refrigerant collector region. The rejection based thereon should be accordingly withdrawn.

Rejections Under 35 USC § 103

Claim 5 was rejected under 35 USC §103(a) as being unpatentable over Makino as applied to claim 1 above, and further in view of U.S. Patent No. 3,045,979 issued to Huggins (Huggins).

The arguments above also apply to the present rejection and are herein incorporated by reference. Makino when combined with Huggins, still fails to disclose or suggest the features lacking in Makino, namely a refrigerant collector region at least partly surrounded by the coolant region.

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In that Huggins fails to disclose or suggest the features which were previously noted as being absent in Makino, it must be concluded that the combination of Makino in view of Huggins cannot render the claims of the present application as obvious. The rejection under § 103 is therefore improper and should be withdrawn.

Claims 1, 4 and 5 were rejected under 35 USC §103(a) as being unpatentable over Makino or Makino/Huggins as applied to claims 1 and 5 above, and further in view of U.S. Publication No. 2001/0001982 (Khelifa) or U.S. Patent No. 6,810,952 issued to Ben Fredj (Ben Fredj).

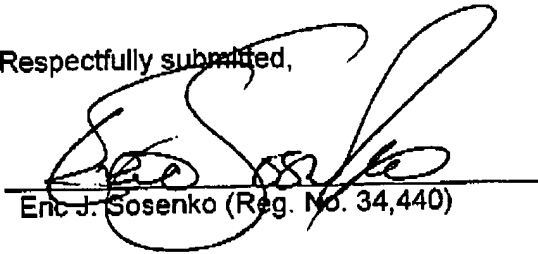
The arguments above apply equally to the present rejection. In that Khelifa or Ben Fredj fail to disclose or suggest the features which were previously noted as being absent in Makino, it must be concluded that the combination of Makino in view of Khelifa or Ben Fredj cannot render the claims of the present application as obvious. The rejection under § 103 is therefore improper and should be withdrawn.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is respectfully requested.

March 27, 2006
Date

Respectfully submitted,


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